

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

ALBERTO HERRERA  
Plaintiff

v.

**Civil No. 04-1425(SEC)**

COMMONWEALTH OF PUERTO RICO, et al.  
Defendants

**ORDER**

<b>MOTION</b>	<b>RULING</b>
<p><b>Docket # 5</b> <b>Motion to Dismiss</b></p>	<p><b>GRANTED.</b> Pending before the Court is Defendants' unopposed motion to dismiss. Defendants present two arguments: (1) that they are entitled to Eleventh Amendment immunity and (2) that the action is time-barred. Plaintiff has filed suit under Section 1983 against the Government and two police agents for incidents taking place in the year 2000. However, the complaint was not filed until May 11, 2004.</p> <p>Section 1983 provides a venue for vindicating federal rights elsewhere conferred. <u>See Graham v. M.S. Connor</u>, 490 U.S. 386, 393-394 (1989). However, it does not contain a statute of limitations to govern those claims filed under it. It is well-settled law that state-law statute of limitations governs suits in federal courts arising under 42 U.S.C. § 1983. <u>Owens v. Okure</u>, 488 U.S. 235 (1989). For such purposes, federal courts are to borrow the state law limitations period for personal injury suits. <u>Id.</u> Puerto Rico law imposes a one-year statute of limitations for tort actions arising out of the fault or negligence of a defendant. Art. 1868(2) of the Puerto Rico Civil Code, 31 P.R. Laws. Ann. § 5298. Hence, actions brought in this district under §1983 are subject to Article's 1868(2) one-year statute of limitations. <u>See Graffals-González v. García-Santiago</u>, 550 F.2d 687, 688 (1<sup>st</sup> Cir. 1977); <u>Carreras-Rosa v. Alves-Cruz</u>, 127 F.3d 172, 174 (1<sup>st</sup> Cir. 1997); <u>Caler-Colón v. Betancourt-Lebrón</u>, 68 F.3d 1, 2 (1<sup>st</sup> Cir. 1996).</p> <p>Based on Plaintiff's allegations in the complaint, it is evident that the instant action is time barred. Accordingly, Defendant's motion is <b>GRANTED</b> and the case will be <b>DISMISSED WITH PREJUDICE</b>.</p>

DATE: July 21, 2005

S/ *Salvador E. Casellas*  
SALVADOR E. CASELLAS  
United States District Judge